UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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P.O. Box 25287
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SUBJECT: Final Cape Hatteras National Seashore Off-Road Vehicle Management Plan/Environmental Impact Statement
CEQ Number 20100445

Dear Ms Hamilton:

The U.S. Environmental Protection Agency (EPA) has reviewed the referenced Final Cape Hatteras National Seashore (CHNS) Off-Road Vehicle Management Plan/Environmental Impact Statement (EIS) in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act. The purpose of this plan is to develop regulations and procedures that carefully manage ORV use/access in the Seashore to protect and preserve natural and cultural resources and natural processes, to provide a variety of visitor use experiences while minimizing conflicts among various users, and to promote the safety of all visitors.

The FEIS evaluates two no action alternatives and four action alternatives for managing ORV use, and identifies their potential environmental consequences. Consistent with NPS laws, regulations, and policies, and the purpose of the Seashore, the FEIS describes Alternative F as the NPS preferred alternative. Alternative F provides a reasonably balanced approach to designating ORV routes and vehicle free areas while providing for the protection of park resources.

Alternative A would manage ORV use and access at the Seashore based on the 2007 Finding of No Significant Impact (FONSI) for the Interim Protected Species Management Strategy/Environmental Assessment and the Superintendent's Compendium 2007, as well as elements from the 1978 draft interim ORV management plan that were incorporated in Superintendent's Order 7. Alternative B would continue management in effect during 2008-2010. Under Alternative B, management of ORV use would follow the terms described under Alternative A, except as modified by the provisions of the consent decree, as amended. Modifications in the consent decree include changes to resource protection buffers and closures for various species at the Seashore and added restrictions related to night driving. Alternative C emphasizes seasonal designation of ORV routes. It would provide visitors to the Seashore with a degree of predictability regarding areas available for ORV use, as well as vehicle-free areas,

based largely on the seasonal resource and visitor use characteristics of various areas in the Seashore.

Alternative D would give visitors to the Seashore the maximum amount of predictability regarding areas available for ORV use and vehicle-free areas for pedestrian use. Restrictions would be applied to larger areas over longer periods of time to minimize changes in designated ORV and non-ORV areas over the course of the year. Alternative E would provide use areas for all types of visitors to the Seashore with a wide variety of access for both ORV and pedestrian users, but often with controls or restrictions in place to limit impacts on sensitive resources. Interdunal road and ramp access would be improved, and more pedestrian access would be provided through substantial additions to parking capacity at various key locations that lend themselves to walking on the beach. Alternative E would provide more miles of ORV routes, shorter hours of ORV night closure during sea turtle nesting season, a park and stay program, and a self-contained vehicle camping program.

Alternative F – The NPS Preferred Alternative. The NPS considered a variety of concepts and measures that either originated during the negotiated rulemaking process from members of the negotiated rulemaking advisory committee (Committee) or were discussed during Committee, subcommittee, or work group sessions. Although the Committee as a whole did not reach a consensus on a recommended alternative, in creating this action alternative the NPS made management judgments as to which combination of concepts and measures would make an effective overall ORV management strategy. This alternative is designed to provide visitors to the Seashore with a wide variety of access opportunities for both ORV and pedestrian users. Alternative F would provide a reasonably balanced approach to designating ORV routes and vehicle-free areas and providing for the protection of park resources. To support access to both vehicle-free areas and designated ORV routes, Alternative F would involve the construction of new parking areas, pedestrian access trails, ORV ramps, and improvements and additions to the interdunal road system. A seasonal night-driving restriction would be established from 9:00 p.m. to 7:00 a.m. during turtle nesting season although areas with no turtle nests could open to night driving from September 16 through November 15. Alternative F would provide for an alternative transportation study and would encourage the establishment of a beach shuttle or water taxi.

CHNS provides important habitats and plays a vital role in the survival of many wildlife species, including a number of rare, unique, threatened and endangered species. ORV use along the CHNS can disrupt habitat or cause a loss of habitat in high use areas. Habitat loss due to ORV use could also occur indirectly as a result of the noise and disturbance from this activity. A number of these species have had historically low reproductive rates. The lack of large undisturbed areas for successful breeding contributes to these low rates at CHNS. Frequent human disturbance can cause the abandonment of nest sites as well as direct loss of eggs and chicks.

Vegetated wetlands along the soundside and interior of the islands are susceptible to direct damage from ORV use. Estuarine wetlands are often denuded of vegetation when ORVs are driven and parked along the soundside shoreline. Also, many of the interior or interdunal

roads are located near wetland areas that are often not noticeable to visitors. When standing water is present along these ORV routes, visitors often drive over adjacent vegetated areas in an attempt to avoid the standing water. This results in wider roads, new vehicle routes, and crushed or dead vegetation. Construction of new parking areas is also of concern for wetlands that may be located nearby.

In general, EPA strongly supports the restriction of use of ORVs to specifically-designated routes that are clearly posted as such and monitored accordingly and to eliminate the use of ORVs within ecologically sensitive areas. Therefore, EPA supports the inclusion of a number of elements common to all the action alternatives that address this interest, including: 1) the establishment of areas that allow ORV use and vehicle-free (non-ORV) areas where ORV use is prohibited; 2) a requirement that ORV operators must drive only on marked ORV routes and must comply with posted restrictions; 3) increased education and outreach to support this requirement; 4) the establishment of Species Management Areas (SMAs) for protection of threatened and endangered species during the breeding and nonbreeding seasons; 5) a requirement that ORV operators must secure vehicular permits for use of designated ORV routes; and 6) the establishment of ORV carrying capacity limits for certain sensitive locations at CHNS. All of these measures when taken together should serve to minimize impacts to a number of the sensitive resources described above. However, the primary difference between the action alternatives is the amount of access each allows for ORV use and the degree of flexibility in establishing the operating parameters associated with the designated ORV routes.

EPA's primary concern about the preferred alternative (Alternative F) is that it designates the second-highest amount of shoreline miles for ORV use and the largest number of new (or relocated) access ramps, parking areas, and new roads and trails among the action alternatives. There appears to be a significant number of existing access points and roads on CHNS. These trails and roads will likely lead to additional potential impacts to soils and wetlands, particularly from ORV use in and around vegetated wetlands on the soundside and along interior ORV routes. Of primary concern to EPA is that their use is splintering the landscape into a disorganized and destructive web of trails and roads. They point to severe impacts to the soil, the spread of invasive plant seeds, and the disruption to sensitive and endangered wildlife habitat as cause for regulatory intervention. Insufficient enforcement of existing regulations has resulted in thousands of miles of unauthorized routes across the landscape.

The dramatic increase in ORV use on public lands can be responsible for a host of adverse impacts on wildlife, vegetation, soils, water quality, and nonmotorized recreationists. The contamination of air, water, and soil by ORV pollution is among the most significant of these impacts. There are at least three major ORV pollution concerns:

* air pollution -- toxic emissions (e.g., carbon monoxide)
* air pollution -- particulates (e.g., dust)
* soil and water pollution -- direct contamination, air pollution settling on surfaces, all of these pollutants concentrating in waterways

Alternative F also allows for greater flexibility in the establishment and enforcement of buffer zones during the breeding season, night-time driving restrictions, and has higher carrying capacities in certain areas than other alternatives, which could lead to the disruption to sensitive and endangered wildlife. Alternative F will also require significantly more resources and operating costs to fully manage the greater flexibility that it allows while attempting to ensure environmental resources are adequately protected. EPA has concerns that the NPS will not have the ability to fully enforce and maintain the protection of sensitive resources if Alternative F is implemented.

EPA agrees with the NPS designation of Alternative D as the environmentally preferable alternative. Alternative D includes the greatest number of shoreline miles closed to ORVs and the least number of miles designated as ORV routes. It also has the least number of new or relocated access ramps, new parking lots, and new ORV interdunal roads. It also provides the greatest level of protection for sensitive species through the establishment of SMAs that involves larger and longer species protection buffers and would not allow pedestrian access once prenesting closures are established. It employs the most restrictive seasonal night-driving regulations to be protective of sea turtle nesting and hatching during that time. It also is the least expensive of any of the action alternatives and requires the least amount of personnel to manage implementation due to its more predictable design of ORV route designation. Therefore, we recommend reconsideration of Alternative D as a viable action alternative.

However, EPA understands the need of the NPS to appropriately balance access to CHNS from multiple users based on its enabling legislation and other regulations. If the impacts of implementing Alternative D are considered significantly adverse on other users and socioeconomic factors, EPA recommends implementation of Alternative C, or perhaps some other hybrid alternative, as a reasonable balance to achieve more access and greater flexibility with regard to ORV designation than Alternative D. Alternative C would provide greater protections for sensitive species with larger seasonal buffers, lower carrying capacities, and much fewer new access ramps, parking lots, and new roads as compared to Alternative F. Alternative C also appears to have approximately similar socioeconomic impacts as the preferred alternative.

We rate this document EC-2 (Environmental Concerns with further information requested). Enclosed is a summary of definitions for EPA ratings. We have concerns that the proposed action identifies the potential for impacts to the environment that should be avoided/minimized. We appreciate the opportunity to review the proposed action. Please contact Ken Clark at (404) 562-8282, if you have any questions or want to discuss our comments.

Sincerely,

Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

U.S. ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

$ LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.

$ EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.

$ EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:

1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
3. Where there is a violation of an EPA policy declaration;
4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.

$ EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:

1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.